

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JANITO DECARVALHO,
Plaintiff

v.

CIVIL ACTION NO.
NO. 17-11224-MBB

ERIK TELFORD, et al.,
Defendants.

ORDER

November 15, 2017

BOWLER, U.S.M.J.

On August 24, 2017, the Court granted Janito Decarvalho's motion to proceed in forma pauperis and advised Decarvalho that if he wished to pursue this action, he must file an amended complaint. See Docket No. 7. Because Decarvalho is a prisoner, the filing fee was assessed and is collected in accordance with 28 U.S.C. § 1915(b)(2). Id.

On October 20, 2017, Decarvalho submitted a proposed amended complaint with a motion for leave to file. See Docket No. 11. The Court granted Decarvalho's motion for leave to file. See 11/09/2017 Electronic Order.

Based on the foregoing, it is hereby ORDERED that:

1. The Clerk shall enter Decarvalho's proposed amended complaint, see Docket No. 11-1, on the docket as plaintiff's

amended complaint.

2. The Clerk shall provide the plaintiff with the form for Consent/Refusal of Magistrate Judge Jurisdiction and the instructions for that form ("consent package").

3. The Clerk shall issue summons as to the identified defendants only. Although the use of fictitious names to identify defendants is not favored, situations may arise where the identity of an alleged defendant cannot be known prior to the filing of a complaint. See Martínez-Rivera v. Ramos, 498 F.3d 3, 8 (1st Cir. 2007). If, through discovery, the plaintiff discovers the true name of any or all of the "Doe" defendants, he "should act promptly to amend the complaint to substitute the correct parties and to dismiss any baseless claims." Id. at 8 n.5.

4. The Clerk shall send the summonses, a copy of the amended complaint, consent package and this Order to the plaintiff, who must thereafter serve the defendants in accordance with Federal Rule of Civil Procedure 4(m). The plaintiff may elect to have service made by the United States Marshal Service. If directed by the plaintiff to do so, the United States Marshal shall serve the summonses, amended complaint, consent package, and this Order upon the defendants,

in the manner directed by the plaintiff, with all costs of service to be advanced by the United States Marshal Service. Notwithstanding this Order to the United States Marshal Service, it remains plaintiff's responsibility to provide the United States Marshal Service with all necessary paperwork and service information.

5. Plaintiff shall have 90 days from the date of this Order to complete service.

SO ORDERED.

/s/ Marianne B. Bowler
MARIANNE B. BOWLER
United States Magistrate Judge